

son resides or carries on business or wherever the person may be found.

(Pub. L. 103-407, § 9, Oct. 22, 1994, 108 Stat. 4226.)

### § 7109. Administrative provisions

#### (a) Construction

Nothing in this chapter preempts or supercedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

#### (b) Amendments to orders

The provisions of this chapter applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

(Pub. L. 103-407, § 10, Oct. 22, 1994, 108 Stat. 4226.)

### § 7110. Regulations

The Secretary may issue such regulations as are necessary to carry out this chapter.

(Pub. L. 103-407, § 11, Oct. 22, 1994, 108 Stat. 4226.)

### § 7111. Authorization of appropriations

#### (a) In general

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this chapter.

#### (b) Administrative expenses

Funds appropriated under subsection (a) of this section shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this chapter.

(Pub. L. 103-407, § 12, Oct. 22, 1994, 108 Stat. 4226.)

## CHAPTER 100—AGRICULTURAL MARKET TRANSITION

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### SUBCHAPTER I—SHORT TITLE, PURPOSE, AND DEFINITIONS

#### § 7201. Short title and purpose

##### (a) Short title

This chapter may be cited as the “Agricultural Market Transition Act”.

##### (b) Purpose

It is the purpose of this chapter—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

(Pub. L. 104-127, title I, §101, Apr. 4, 1996, 110 Stat. 896.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which enacted this chapter and section 6933 of this title, amended sections 1308, 1308-1, 1308-3, 1358-1, 1358b, 1358c, 1359a, 1373, 1441, 1445j, 1508, 1516, 4504, 6401, 6402, 6413, 6414, and 6932 of this title and sections 713a-14, 714b, 714i, and 714k of Title 15, Commerce and Trade, repealed sections 1426, 1433f, 1441-2, 1444-2, 1444f, 1445b-3a, 1445c-3, 1445h, 1446e to 1446h, and 1519 of this title, enacted provisions set out as notes under sections 1373, 1446e, 1446e-1, and 1508 of this title, and repealed provisions set out as a note under section 1421 of this title. For complete classification of title I to the Code, see Tables.

#### SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-228, §1, Aug. 12, 1998, 112 Stat. 1516, provided that: “This Act [amending section 7212 of this title] may be cited as the ‘Emergency Farm Financial Relief Act’.”

#### SHORT TITLE

Section 1(a) of Pub. L. 104-127 provided that: “This Act [see Tables for classification] may be cited as the ‘Federal Agriculture Improvement and Reform Act of 1996’.”

#### SEVERABILITY

Section 928 of Pub. L. 104-127 provided that: “If any provision of this Act [see Short Title note above] or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.”

### § 7202. Definitions

In this chapter:

#### (1) Agricultural Act of 1949

Except in section 7301 of this title, the term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 7301(b)(1) of this title.

#### (2) Considered planted

The term “considered planted” means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

#### (3) Contract

The terms “contract” and “production flexibility contract” mean a production flexibility

contract entered into under section 7211 of this title.

#### (4) Contract acreage

The term “contract acreage” means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 7301(b)(1) of this title).

#### (5) Contract commodity

The term “contract commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

#### (6) Contract payment

The term “contract payment” means a payment made under this subchapter<sup>1</sup> pursuant to a contract.

#### (7) Department

The term “Department” means the Department of Agriculture.

#### (8) Extra long staple cotton

The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the Barbados species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

#### (9) Farm program payment yield

The term “farm program payment yield” means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

#### (10) Loan commodity

The term “loan commodity” means each contract commodity, extra long staple cotton, and oilseed.

#### (11) Oilseed

The term “oilseed” means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

#### (12) Producer

The term “producer” means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for

<sup>1</sup> So in original. Probably should be “chapter”.

marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

**(13) Secretary**

The term “Secretary” means the Secretary of Agriculture.

**(14) State**

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

**(15) United States**

The term “United States”, when used in a geographical sense, means all of the States.

(Pub. L. 104-127, title I, §102, Apr. 4, 1996, 110 Stat. 897.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

The Agricultural Act of 1949, referred to in pars. (1), (2), and (4), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), referred to in par. (9), was omitted from the Code.

SUBCHAPTER II—PRODUCTION  
FLEXIBILITY CONTRACTS

**§ 7211. Authorization for use of production flexibility contracts**

**(a) Offer and terms**

The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) of this section on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 7218 of this title; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

**(b) Eligible owners and producers described**

The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the

eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 1508(b) of this title.

**(c) Tenants and sharecroppers**

In carrying out this subchapter, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

**(d) Eligible cropland described**

Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 7212(a)(2) of this title.

**(e) Quantity of eligible cropland covered by contract**

Subject to subsection (b)(4) of this section, an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

**(f) Voluntary reduction in contract acreage**

Subject to subsection (b)(4) of this section, an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

(Pub. L. 104-127, title I, §111, Apr. 4, 1996, 110 Stat. 898.)

## REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (a)(1), (2), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

This subchapter, referred to in subsec. (c), was in the original “this subtitle”, meaning subtitle B (§§111-118) of title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 898, which enacted this subchapter and amended sections 1308, 1308-1, and 1308-3 of this title. For complete classification of subtitle B to the Code, see Tables.

Sections 101B, 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (d)(1), were classified to sections 1441-2, 1444-2, 1444f, and 1445b-3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)-(D) of this title.

VIOLATION OF CONTRACT; DENIAL OF FUNDS FOR  
SALARIES

Pub. L. 104-180, title VII, §26, Aug. 6, 1996, 110 Stat. 1600, provided that: “None of the funds made available in this Act [see Tables for classification] may be used to pay the salaries of employees of the Department of Agriculture who make payments pursuant to a production flexibility contract entered into under section 111 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 7 U.S.C. 7211) when it is made known to the Federal official having authority to obligate or expend such funds that the land covered by that production flexibility contract is not being used for the production of an agricultural commodity or is not devoted to a conserving use, unless it is also made known to that Federal official that the lack of agricultural production or the lack of a conserving use is a consequence of drought, flood, or other natural disaster.”

## § 7212. Elements of contracts

### (a) Time for contracting

#### (1) Commencement

To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after April 4, 1996.

#### (2) Deadline

Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

### (3) Conservation reserve lands

#### (A) In general

At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 3831 of title 16 that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

#### (B) Amount

Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the produc-

tion flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

### (b) Duration of contract

#### (1) Beginning date

The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3) of this section, the date the production flexibility contract was entered into or expanded to cover the acreage.

#### (2) Ending date

The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

### (c) Estimation of contract payments

At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

### (d) Time for payment

#### (1) In general

An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

#### (2) Advance payments

##### (A) Fiscal year 1996

At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

##### (B) Subsequent fiscal years

At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

#### (3) Special rule

Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for any of fiscal years 1999 through 2002 at such time or times during that fiscal year as the owner or producer may specify.

(Pub. L. 104-127, title I, §112, Apr. 4, 1996, 110 Stat. 899; Pub. L. 105-228, §2, Aug. 12, 1998, 112 Stat. 1516; Pub. L. 106-78, title VIII, §811, Oct. 22, 1999, 113 Stat. 1181.)

#### AMENDMENTS

1999—Subsec. (d)(3). Pub. L. 106-78, in par. heading, struck out “for fiscal year 1999” after “rule” and, in

text, substituted “any of fiscal years 1999 through 2002” for “fiscal year 1999”.

1998—Subsec. (d)(3). Pub. L. 105-228 added par. (3).

#### PRODUCTION FLEXIBILITY CONTRACT PAYMENTS

Pub. L. 106-170, title V, § 525, Dec. 17, 1999, 113 Stat. 1928, as amended by Pub. L. 107-147, title IV, § 417(24)(A), Mar. 9, 2002, 116 Stat. 57, provided that: “Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201 et seq.), as in effect on the date of the enactment of this Act [Dec. 17, 1999], shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]”.

Pub. L. 105-277, div. J, title II, § 2012, Oct. 21, 1998, 112 Stat. 2681-902, provided that:

“(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d)(2) and (3)), as in effect on the date of the enactment of this Act [Oct. 21, 1998], shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act [7 U.S.C. 7211 et seq.] (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]”.

“(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.”

### § 7213. Amounts available for contract payments

#### (a) Fiscal year amounts

The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

- (1) For fiscal year 1996, \$5,570,000,000.
- (2) For fiscal year 1997, \$5,385,000,000.
- (3) For fiscal year 1998, \$5,800,000,000.
- (4) For fiscal year 1999, \$5,603,000,000.
- (5) For fiscal year 2000, \$5,130,000,000.
- (6) For fiscal year 2001, \$4,130,000,000.
- (7) For fiscal year 2002, \$4,008,000,000.

#### (b) Allocation

The amount made available for a fiscal year under subsection (a) of this section shall be allocated as follows:

- (1) For wheat, 26.26 percent.
- (2) For corn, 46.22 percent.
- (3) For grain sorghum, 5.11 percent.
- (4) For barley, 2.16 percent.
- (5) For oats, 0.15 percent.
- (6) For upland cotton, 11.63 percent.
- (7) For rice, 8.47 percent.

#### (c) Adjustment

The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) of this section for a particular fiscal year by—

- (1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;
- (2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 7216 of this title for the commodity; and
- (3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the

commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

#### (d) Additional rice allocation

In addition to the adjustments required under subsection (c) of this section, the amount allocated under subsection (b) of this section for rice contract payments shall be increased by \$8,500,000 for each of fiscal years 1997 through 2002.

#### (e) Exclusion of certain amounts from contract payments

Any amount added pursuant to paragraphs (1) and (2) of subsection (c) of this section to the amount available under subsection (a) of this section for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 7215 of this title or section 1308(1)<sup>1</sup> of this title. However, the amount of a payment covered by this subsection may not exceed \$50,000 per person.

#### (f) Effect of payment limitation

The amount available under subsection (a) of this section for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1308(1)<sup>1</sup> of this title.

(Pub. L. 104-127, title I, § 113, Apr. 4, 1996, 110 Stat. 900.)

#### REFERENCES IN TEXT

Sections 103B, 105B, and 107B of the Agricultural Act of 1949, referred to in subsec. (c)(3), were classified to sections 1444-2, 1444f, and 1445b-3a, respectively, of this title prior to repeal by section 7301(b)(2)(A)-(D) of this title.

Section 1308(1) of this title, referred to in subsecs. (e), (f), was repealed by Pub. L. 107-171, title I, § 1603(a), May 13, 2002, 116 Stat. 213.

### § 7214. Determination of contract payments under contracts

#### (a) Individual payment quantity of contract commodities

For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

- (1) 85 percent of the contract acreage; and
- (2) the farm program payment yield.

#### (b) Annual payment quantity of contract commodities

The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) of this section for each individual contract.

#### (c) Annual payment rate

The payment rate for a contract commodity for each fiscal year shall be equal to—

- (1) the amount made available under section 7213 of this title for the contract commodity for the fiscal year; divided by

<sup>1</sup> See References in text below.

(2) the amount determined under subsection (b) of this section for the fiscal year.

**(d) Annual payment amount**

The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) of this section for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c) of this section.

**(e) Reduction in payment amount**

The contract payment determined under subsection (d) of this section for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

**(f) Assignment of contract payments**

The provisions of section 590h(g) of title 16 (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

**(g) Sharing of contract payments**

The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

(Pub. L. 104-127, title I, § 114, Apr. 4, 1996, 110 Stat. 901.)

**§ 7215. Applicability of payment limitations**

Sections 1308 through 1308-3 of this title shall be applicable to contract payments made under this subchapter.

(Pub. L. 104-127, title I, § 115(a), Apr. 4, 1996, 110 Stat. 902.)

**§ 7216. Violations of contract**

**(a) Termination of contract for violation**

Except as provided in subsection (b) of this section, if an owner or producer subject to a contract violates a requirement of the contract specified in section 7211(a) of this title, the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, to-

gether with interest on the contract payments as determined by the Secretary.

**(b) Refund or adjustment**

If the Secretary determines that a violation does not warrant termination of the contract under subsection (a) of this section, the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

**(c) Foreclosure**

**(1) Effect of foreclosure**

An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

**(2) Resumption of operation**

This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

**(d) Review**

A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

(Pub. L. 104-127, title I, § 116, Apr. 4, 1996, 110 Stat. 903.)

**§ 7217. Transfer or change of interest in lands subject to contract**

**(a) Termination**

Except as provided in subsection (c) of this section, a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

**(b) Modification**

At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subchapter, as determined by the Secretary.

**(c) Exception**

If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract pay-

ment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

(Pub. L. 104-127, title I, §117, Apr. 4, 1996, 110 Stat. 904.)

## § 7218. Planting flexibility

### (a) Permitted crops

Subject to subsection (b) of this section, any commodity or crop may be planted on contract acreage on a farm.

### (b) Limitations and exceptions regarding fruits and vegetables

#### (1) Limitations

The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

#### (2) Exceptions

Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

(Pub. L. 104-127, title I, §118, Apr. 4, 1996, 110 Stat. 904.)

#### CONTRACT PAYMENTS FOR WILD RICE ACREAGE

Pub. L. 106-78, title VII, §727, Oct. 22, 1999, 113 Stat. 1164, provided that: "None of the funds appropriated or otherwise available to the Department of Agriculture in fiscal year 2000 or thereafter may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice."

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 105-277, div. A, §101(a) [title VII, §727], Oct. 21, 1998, 112 Stat. 2681, 2681-28.

Pub. L. 105-86, title VII, §734, Nov. 18, 1997, 111 Stat. 2110.

## SUBCHAPTER III—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

### § 7231. Availability of nonrecourse marketing assistance loans

#### (a) Nonrecourse loans available

For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 7232 of this title for the loan commodity.

#### (b) Eligible production

The following production shall be eligible for a marketing assistance loan under subsection (a) of this section:

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

#### (c) Compliance with conservation and wetlands requirements

As a condition of the receipt of a marketing assistance loan under subsection (a) of this section, the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

#### (d) Additional outlays prohibited

The Secretary shall carry out this subchapter in such a manner that there are no additional outlays under this subchapter as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

(Pub. L. 104-127, title I, §131, Apr. 4, 1996, 110 Stat. 905.)

#### REFERENCES IN TEXT

The Food Security Act of 1985, referred to in subsec. (c), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Subtitles B and C of title XII of the Act are classified generally to subchapters II (§3811 et seq.) and III (§3821 et seq.), respectively, of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

### § 7232. Loan rates for marketing assistance loans

#### (a) Wheat

##### (1) Loan rate

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of

wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than \$2.58 per bushel.

**(2) Stocks to use ratio adjustment**

If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

**(b) Feed grains**

**(1) Loan rate for corn**

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231 of this title for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than \$1.89 per bushel.

**(2) Stocks to use ratio adjustment**

If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

**(3) Other feed grains**

The loan rate for a marketing assistance loan under section 7231 of this title for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

**(c) Upland cotton**

**(1) Loan rate**

Subject to paragraph (2), the loan rate for a marketing assistance loan under section 7231

of this title for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling 1<sup>3</sup>/<sub>32</sub>-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

**(2) Limitations**

The loan rate for a marketing assistance loan for upland cotton shall not be less than \$0.50 per pound or more than \$0.5192 per pound.

**(d) Extra long staple cotton**

The loan rate for a marketing assistance loan under section 7231 of this title for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than \$0.7965 per pound.

**(e) Rice**

The loan rate for a marketing assistance loan under section 7231 of this title for rice shall be \$6.50 per hundredweight.

**(f) Oilseeds**

**(1) Soybeans**

The loan rate for a marketing assistance loan under section 7231 of this title for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than \$4.92 or more than \$5.26 per bushel.



**(2) Sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed**

The loan rate for a marketing assistance loan under section 7231 of this title for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than \$0.087 or more than \$0.093 per pound.

**(3) Other oilseeds**

The loan rates for a marketing assistance loan under section 7231 of this title for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

(Pub. L. 104-127, title I, §132, Apr. 4, 1996, 110 Stat. 905.)

**§ 7233. Term of loans**

**(a) Term of loan**

In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 7231 of this title shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

**(b) Special rule for cotton**

A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

**(c) Extensions prohibited**

The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

(Pub. L. 104-127, title I, §133, Apr. 4, 1996, 110 Stat. 907.)

**§ 7234. Repayment of loans**

**(a) Repayment rates for wheat, feed grains, and oilseeds**

The Secretary shall permit a producer to repay a marketing assistance loan under section 7231 of this title for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

**(b) Repayment rates for upland cotton and rice**

The Secretary shall permit producers to repay a marketing assistance loan under section 7231 of this title for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

**(c) Repayment rates for extra long staple cotton**

Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 7232 of this title, plus interest (as determined by the Secretary).

**(d) Prevailing world market price**

For purposes of this section and section 7236 of this title, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

**(e) Adjustment of prevailing world market price for upland cotton**

**(1) In general**

During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) of this section shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 7232 of this title, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the “Northern Europe price”).

**(2) Further adjustment**

Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

**(3) Limitation on further adjustment**

The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling  $1\frac{3}{32}$ -inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(Pub. L. 104-127, title I, § 134, Apr. 4, 1996, 110 Stat. 908.)

**§ 7235. Loan deficiency payments**

**(a) Availability of loan deficiency payments**

Except as provided in subsection (d) of this section, the Secretary may make loan deficiency payments available to—

(1) producers who, although eligible to obtain a marketing assistance loan under section 7231 of this title with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section; and

(2) effective only for the 2000 and 2001 crop years, producers that, although not eligible to obtain such a marketing assistance loan under section 7231 of this title, produce a contract commodity.

**(b) Computation**

A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) of this section for the loan commodity; by

(2) the quantity of the loan commodity produced by the eligible producers, excluding any quantity for which the producers obtain a loan under section 7231 of this title.

**(c) Loan payment rate**

For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 7232 of this title for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 7234 of this title.

**(d) Exception for extra long staple cotton**

This section shall not apply with respect to extra long staple cotton.

**(e) Transition**

A payment to a producer eligible for a payment under subsection (a)(2) of this section that harvested a commodity on or before the date that is 30 days after the promulgation of the regulations implementing subsection (a)(2) of this section shall be determined as the date the producer lost beneficial interest in the commodity, as determined by the Secretary.

**(f) Beneficial interest**

Subject to subsection (e) of this section, a producer shall be eligible for a payment under this

section only if the producer has a beneficial interest in the commodity, as determined by the Secretary.

**(g) Effective date for payment rate determination**

For the 2001 crop year, the Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity using the payment rate in effect under subsection (c) of this section as of the earlier of the following:

(1) The date on which the producers marketed or otherwise lost beneficial interest in the crop of the loan commodity, as determined by the Secretary.

(2) The date the producers requested the payment.

(Pub. L. 104-127, title I, § 135, Apr. 4, 1996, 110 Stat. 909; Pub. L. 106-224, title II, § 206, June 20, 2000, 114 Stat. 405; Pub. L. 107-171, title I, § 1205(f)(2), May 13, 2002, 116 Stat. 159.)

**AMENDMENTS**

2002—Subsec. (a)(2). Pub. L. 107-171, § 1205(f)(2)(A), substituted “2000 and 2001 crop years” for “2000 crop year”.

Subsec. (g). Pub. L. 107-171, § 1205(f)(2)(B), added subsec. (g).

2000—Subsec. (a). Pub. L. 106-224, § 206(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 106-224, § 206(b), substituted “produced by the eligible producers, excluding any quantity for which the producers obtain a loan under section 7231 of this title,” for “that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.”

Subsecs. (e), (f). Pub. L. 106-224, § 206(c), added subsecs. (e) and (f).

**§ 7236. Special marketing loan provisions for upland cotton**

**(a) Cotton user marketing certificates**

**(1) Issuance**

During the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M)  $1\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 7232 of this title.

**(2) Value of certificates or payments**

The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

**(3) Administration of marketing certificates****(A) Redemption, marketing, or exchange**

The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

**(B) Designation of commodities and products**

To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates.

**(C) Transfers**

Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

**(b) Special import quota****(1) Establishment****(A) In general**

The President shall carry out an import quota program during the period ending July 31, 2003, as provided in this subsection.

**(B) Program requirements**

Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a) of this section, exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

**(C) Tight domestic supply**

During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a) of this section.

**(D) Season-ending United States stocks-to-use ratio**

For the purposes of making estimates under subparagraph (C), the Secretary shall,

on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

**(2) Quantity**

The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

**(3) Application**

The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

**(4) Overlap**

A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c) of this section.

**(5) Preferential tariff treatment**

The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 2703(d) of title 19;

(B) section 3203 of title 19;

(C) section 2463(d) of title 19; and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

**(6) "Special import quota" defined**

In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

**(7) Limitation**

The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 5 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

**(c) Limited global import quota for upland cotton****(1) In general**

The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

**(A) Quantity**

The quantity of the quota shall be equal to 21 days of domestic mill consumption of up-

land cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

**(B) Quantity if prior quota**

If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

**(C) Preferential tariff treatment**

The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

- (i) section 2703(d) of title 19;
- (ii) section 3203 of title 19;
- (iii) section 2463(d) of title 19; and
- (iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

**(D) Definitions**

In this subsection:

**(i) Supply**

The term “supply” means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

- (I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;
- (II) production of the current crop; and
- (III) imports to the latest date available during the marketing year.

**(ii) Demand**

The term “demand” means—

- (I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and
- (II) the larger of—
  - (aa) average exports of upland cotton during the preceding 6 marketing years; or
  - (bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

**(iii) Limited global import quota**

The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

**(E) Quota entry period**

When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

**(2) No overlap**

Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b) of this section.

(Pub. L. 104-127, title I, §136, Apr. 4, 1996, 110 Stat. 909; Pub. L. 105-86, title VII, §731, Nov. 18, 1997, 111 Stat. 2108; Pub. L. 105-277, div. A, §101(a) [title VII, §762], Oct. 21, 1998, 112 Stat. 2681, 2681-36; Pub. L. 106-78, title VIII, §806, Oct. 22, 1999, 113 Stat. 1179.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule, referred to in subsecs. (b)(5)(D) and (c)(1)(C)(iv), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106-78, §806(a)(1), substituted “or cash payments, at the option of the recipient,” for “or cash payments” in introductory provisions.

Subsec. (a)(1)(A), (2). Pub. L. 106-78, §806(a)(2), substituted “1.25 cents per pound” for “3 cents per pound”.

Subsec. (a)(3)(A). Pub. L. 106-78, §806(a)(3)(A), substituted “owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton” for “owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates” in first sentence.

Subsec. (a)(3)(B). Pub. L. 106-78, §806(a)(3)(B), struck out at end “If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.”

Subsec. (a)(4). Pub. L. 106-78, §806(a)(4), struck out heading and text of par. (4). Text read as follows: “Total expenditures under this subsection shall not exceed \$701,000,000 during fiscal years 1996 through 2002.”

Subsec. (b)(1). Pub. L. 106-78, §806(b)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a) of this section, exceeds the Northern Europe price by more than 3 cents per pound, there shall immediately be in effect a special import quota.”

Subsec. (b)(7). Pub. L. 106-78, §806(b)(2), added par. (7). 1998—Subsecs. (a)(1)(A), (2), (b)(1). Pub. L. 105-277 substituted “3 cents” for “1.25 cents”.

1997—Subsec. (a)(1). Pub. L. 105-86, §731(1), in introductory provisions substituted “During” for “Subject to paragraph (4), during” and in subpar. (B) substituted “134” for “130”.

Subsec. (a)(4), (5). Pub. L. 105-86, §731(2), (3) redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: “The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this sub-

section, exceeds the Northern Europe price by more than 1.25 cents per pound.”

EFFECTIVE DATE OF 1997 AMENDMENT

Section 731 of Pub. L. 105–86 provided that the amendment made by that section is effective Oct. 1, 1998.

**§ 7236a. Special competitive provisions for extra long staple cotton**

**(a) Competitiveness program**

Notwithstanding any other provision of law, during the period beginning on October 1, 1999, and ending on July 31, 2003, the Secretary shall carry out a program to maintain and expand the domestic use of extra long staple cotton produced in the United States, to increase exports of extra long staple cotton produced in the United States, and to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

**(b) Payments under program; trigger**

Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

**(c) Eligible recipients**

The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States who enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

**(d) Payment amount**

Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) of this section during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

**(e) Form of payment**

Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

(Pub. L. 104–127, title I, §136A, as added Pub. L. 106–113, div. B, §1000(a)(5) [title I, §104(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–291.)

**§ 7237. Availability of recourse loans for high moisture feed grains and seed cotton and other fibers**

**(a) High moisture feed grains**

**(1) Recourse loans available**

For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

**(2) Eligibility of acquired feed grains**

A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

**(3) “High moisture state” defined**

In this subsection, the term “high moisture state” means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 7231 of this title.

**(b) Recourse loans available for seed cotton**

**(1) Upland cotton**

For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined

by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

**(2) Extra long staple cotton**

For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

**(c) Recourse loans available for mohair**

**(1) Recourse loans available**

Notwithstanding any other provision of law, during fiscal year 1999, the Secretary shall make available recourse loans, as determined by the Secretary, to producers of mohair produced during or before that fiscal year.

**(2) Loan rate**

The loan rate for a loan under paragraph (1) shall be equal to \$2.00 per pound.

**(3) Term of loan**

A loan under paragraph (1) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

**(4) Waiver of interest**

Notwithstanding subsection (d) of this section, the Secretary shall not charge interest on a loan made under paragraph (1).

**(d) Repayment rates**

Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

(Pub. L. 104-127, title I, §137, Apr. 4, 1996, 110 Stat. 912; Pub. L. 105-277, div. A, §101(a) [title XI, §1126], Oct. 21, 1998, 112 Stat. 2681, 2681-46.)

AMENDMENTS

1998—Pub. L. 105-277, §101(a) [title XI, §1126(1)], inserted “and other fibers” after “seed cotton” in section catchline.

Subsecs. (c), (d). Pub. L. 105-277, §101(a) [title XI, §1126(2), (3)], added subsec. (c) and redesignated former subsec. (c) as (d).

SUBCHAPTER IV—OTHER COMMODITIES

PART A—DAIRY

**§ 7251. Milk price support program**

**(a) Support activities**

The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

**(b) Rate**

The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

- (1) During calendar year 1996, \$10.35.
- (2) During calendar year 1997, \$10.20.
- (3) During calendar year 1998, \$10.05.
- (4) During each of calendar years 1999 through 2001, \$9.90.
- (5) During the period beginning on January 1, 2002, and ending on May 31, 2002, \$9.90.

**(c) Purchase prices**

The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b) of this section.

**(d) Special rule for butter and nonfat dry milk purchase prices**

**(1) Allocation of purchase prices**

The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5 shall not apply with respect to the implementation of this section.

**(2) Timing of purchase price adjustments**

The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

**(e) Refunds of 1995 and 1996 assessments**

**(1) Refund required**

The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g) of this section, in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

**(2) Exception**

This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

**(3) Treatment of refund**

A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 3811 and 3821 of title 16.

**(f) Commodity Credit Corporation**

The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

**(g) Omitted**

**(h) Period of effectiveness**

This section (other than subsection (g) of this section) shall be effective only during the period

beginning on the first day of the first month beginning after April 4, 1996, and ending on May 31, 2002. The program authorized by this section shall terminate on May 31, 2002, and shall be considered to have expired notwithstanding section 907 of title 2.

(Pub. L. 104-127, title I, §141, Apr. 4, 1996, 110 Stat. 914; Pub. L. 106-78, title VIII, §807(a), Oct. 22, 1999, 113 Stat. 1181; Pub. L. 106-387, §1(a) [title VII, §742(a)], Oct. 28, 2000, 114 Stat. 1549, 1549A-35; Pub. L. 107-76, title VII, §772(a), Nov. 28, 2001, 115 Stat. 745.)

#### REFERENCES IN TEXT

Section 204 of the Agricultural Act of 1949, referred to in subsec. (e)(1), (2), was classified to section 1446e of this title prior to repeal by subsec. (g) of this section. See Codification note below.

#### CODIFICATION

Section is comprised of section 141 of Pub. L. 104-127. Subsec. (g) of section 141 of Pub. L. 104-127 repealed section 1446e of this title and enacted provisions set out as a note under section 1446e of this title.

#### AMENDMENTS

2001—Subsec. (b)(5). Pub. L. 107-76, §772(a)(1), added par. (5).

Subsec. (h). Pub. L. 107-76, §772(a)(2), substituted “May 31, 2002” for “December 31, 2001” in two places.

2000—Subsec. (b)(4). Pub. L. 106-387, §1(a) [title VII, §742(a)(1)], substituted “through 2001” for “and 2000”.

Subsec. (h). Pub. L. 106-387, §1(a) [title VII, §742(a)(2)], substituted “2001” for “2000” in two places.

1999—Subsec. (b)(4). Pub. L. 106-78, §807(a)(1), substituted “each of calendar years 1999 and 2000” for “calendar year 1999”.

Subsec. (h). Pub. L. 106-78, §807(a)(2), substituted “2000” for “1999” in two places.

#### § 7252. Repealed. Pub. L. 107-76, title VII, § 772(b), Nov. 28, 2001, 115 Stat. 745

Section, Pub. L. 104-127, title I, §142, Apr. 4, 1996, 110 Stat. 915; Pub. L. 106-78, title VIII, §807(b), Oct. 22, 1999, 113 Stat. 1181; Pub. L. 106-387, §1(a) [title VII, §742(b)], Oct. 28, 2000, 114 Stat. 1549, 1549A-35, related to recourse loan program for commercial processors of dairy products.

#### § 7253. Consolidation and reform of Federal milk marketing orders

##### (a) Amendment of orders

###### (1) Required consolidation

The Secretary shall amend Federal milk marketing orders issued under section 608c of this title to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

###### (2) Inclusion of California as separate order

Upon the petition and approval of California dairy producers in the manner provided in section 608c of this title, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

###### (3) Related issues addressed in consolidation

Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

##### (4) Effect of existing law

In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 608c(5)(A) of this title.

##### (b) Expedited process

###### (1) Use of informal rulemaking

To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a) of this section, the Secretary shall use the notice and comment procedures provided in section 553 of title 5.

###### (2) Time limitations

###### (A) Proposed amendments

The Secretary shall announce the proposed amendments to be made under subsection (a) of this section not later than 2 years after April 4, 1996.

###### (B) Final amendments

The Secretary shall implement the amendments not later than 3 years after April 4, 1996.

##### (3) Effect of court order

The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a) of this section, the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

##### (c) Failure to timely consolidate orders

If the Secretary fails to implement the consolidation required under subsection (a)(1) of this section within the time period required under subsection (b)(2)(B) of this section (plus any additional period provided under subsection (b)(3) of this section), the Secretary may not assess or collect assessments from milk producers or handlers under such section 608c of this title for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

**(d) Report regarding further reforms****(1) Report required**

Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 608c of this title in light of the reforms required by subsection (a) of this section;

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a) of this section; and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

**(2) Effect of other laws**

Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104-127, title I, §143, Apr. 4, 1996, 110 Stat. 915.)

**USE OF OPTION 1A AS PRICE STRUCTURE FOR CLASS I MILK UNDER CONSOLIDATED FEDERAL MILK MARKETING ORDERS**

Pub. L. 106-113, div. B, §1000(a)(8) [§1], Nov. 29, 1999, 113 Stat. 1536, 1501A-517, provided that:

“(a) **FINAL RULE DEFINED.**—In this section, the term ‘final rule’ means the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021), to comply with section 143 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7253).

“(b) **IMPLEMENTATION OF FINAL RULE FOR MILK ORDER REFORM.**—Subject to subsection (c), the final rule shall take effect, and be implemented by the Secretary of Agriculture, on the first day of the first month beginning at least 30 days after the date of the enactment of this Act [Nov. 29, 1999].

“(c) **USE OF OPTION 1A FOR PRICING CLASS I MILK.**—In lieu of the Class I price differentials specified in the final rule, the Secretary of Agriculture shall price fluid or Class I milk under the Federal milk marketing orders using the Class I price differentials identified as Option 1A ‘Location-Specific Differentials Analysis’ in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4809), except that the Secretary shall include the corrections and modifications to such Class I differentials made by the Secretary through April 2, 1999.

“(d) **EFFECT OF PRIOR ANNOUNCEMENT OF MINIMUM PRICES.**—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the effective date specified in subsection (b), the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the month or months for which the prices have been announced.

“(e) **IMPLEMENTATION OF REQUIREMENT.**—The implementation of the final rule, as modified by subsection (c), shall not be subject to any of the following:

“(1) The notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code.

“(2) A referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of sec-

tion 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

“(3) The Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

“(4) Chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act).

“(5) Any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this Act [Nov. 29, 1999].”

**FURTHER RULEMAKING TO DEVELOP PRICING METHODS FOR CLASS III AND CLASS IV MILK UNDER MARKETING ORDERS**

Pub. L. 106-113, div. B, §1000(a)(8) [§2], Nov. 29, 1999, 113 Stat. 1536, 1501A-518, provided that:

“(a) **CONGRESSIONAL FINDING.**—The Class III and Class IV milk pricing formulas included in the final decision for the consolidation and reform of Federal milk marketing orders, as published in the Federal Register on April 2, 1999 (64 Fed. Reg. 16025), do not adequately reflect public comment on the original proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802), and are sufficiently different from the proposed rule and any comments submitted with regard to the proposed rule that further emergency rulemaking is merited.

“(b) **RULEMAKING REQUIRED.**—The Secretary of Agriculture shall conduct rulemaking, on the record after an opportunity for an agency hearing, to reconsider the Class III and Class IV milk pricing formulas included in the final rule for the consolidation and reform of Federal milk marketing orders that was published in the Federal Register on September 1, 1999 (64 Fed. Reg. 47897-48021).

“(c) **TIME PERIOD FOR RULEMAKING.**—On December 1, 2000, the Secretary of Agriculture shall publish in the Federal Register a final decision on the Class III and Class IV milk pricing formulas. The resulting formulas shall take effect, and be implemented by the Secretary, on January 1, 2001.

“(d) **EFFECT OF COURT ORDER.**—The actions authorized by subsections (b) and (c) are intended to ensure the timely publication and implementation of new pricing formulas for Class III and Class IV milk. In the event that the Secretary of Agriculture is enjoined or otherwise restrained by a court order from implementing a final decision within the time period specified in subsection (c), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in subsection (c) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

“(e) **FAILURE TO TIMELY COMPLETE RULEMAKING.**—If the Secretary of Agriculture fails to implement new Class III and Class IV milk pricing formulas within the time period required under subsection (c) (plus any additional period provided under subsection (d)), the Secretary may not assess or collect assessments from milk producers or handlers under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, for marketing order administration and services provided under such section after the end of that period until the pricing formulas are implemented. The Secretary may not reduce the level of services provided under that section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

“(f) **IMPLEMENTATION OF REQUIREMENT.**—The implementation of the final decision on new Class III and Class IV milk pricing formulas shall not be subject to congressional review under chapter 8 of title 5, United States Code.”



### § 7254. Effect on fluid milk standards in State of California

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

- (1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or
- (2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

(Pub. L. 104-127, title I, §144, Apr. 4, 1996, 110 Stat. 917.)

### § 7255. Milk manufacturing marketing adjustment

#### (a) Maximum allowances established

No State shall provide for a manufacturing allowance for the processing of milk in excess of—

- (1) \$1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and
- (2) \$1.80 per hundredweight of milk for milk manufactured into cheese.

#### (b) “Manufacturing allowance” defined

In this section, the term “manufacturing allowance” means—

- (1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce those products; or
- (2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State’s yield and product price formulas exceeds the class price for the milk used to produce cheese.

#### (c) Effect of violation

If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a) of this section, the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

#### (d) Effective date; implementation

This section (other than subsection (e)<sup>1</sup> of this section) shall be effective during the period beginning on the first day of the first month beginning after April 4, 1996, and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(Pub. L. 104-127, title I, §145, Apr. 4, 1996, 110 Stat. 917.)

<sup>1</sup> See Codification note below.

### CODIFICATION

Section is comprised of section 145 of Pub. L. 104-127. Subsec. (e) of section 145 of Pub. L. 104-127 repealed section 1446e-1 of this title and enacted provisions set out as a note under section 1446e-1 of this title.

### § 7256. Northeast Interstate Dairy Compact

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate<sup>1</sup> Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

#### (1) Finding of compelling public interest

Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of April 4, 1996, the authority to implement the Northeast Interstate Dairy Compact.

#### (2) Limitation on manufacturing price

The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III-A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 608c of this title.

#### (3) Duration

Consent for the Northeast Interstate Dairy Compact shall terminate on September 30, 2001.

#### (4) Additional States

Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after April 4, 1996.

#### (5) Compensation of Commodity Credit Corporation

Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

#### (6) Milk marketing order Administrator

At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 608c(5)<sup>2</sup> of this title shall provide technical assistance to the

<sup>1</sup> So in original. Probably should be preceded by “of”.

<sup>2</sup> See References in Text note below.

Compact Commission and be compensated for that assistance.

**(7) Further conditions**

The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

(Pub. L. 104-127, title I, §147, Apr. 4, 1996, 110 Stat. 919; Pub. L. 106-113, div. B, §1000(a)(8) [§4], Nov. 29, 1999, 113 Stat. 1536, 1501A-520.)

REFERENCES IN TEXT

Section 608(c) of this title, referred to in par. (6), was in the original “section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937,” which was translated as meaning section 8c(5) of the Agricultural Adjustment Act, to reflect the probable intent of Congress.

AMENDMENTS

1999—Par. (3). Pub. L. 106-113 substituted “on September 30, 2001.” for “concurrent with the Secretary’s implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 7253 of this title.”

**§ 7257. Authority to assist in establishment and maintenance of one or more export trading companies**

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

(Pub. L. 104-127, title I, §149, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in text, is title I of Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

**§ 7258. Standby authority to indicate entity best suited to provide international market development and export services**

**(a) Indication of entity best suited to assist international market development for and export of United States dairy products**

The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

**(b) Funding of export activities**

The Secretary shall assist the entity or entities identified under subsection (a) of this section in identifying sources of funding for the activities specified in subsection (a) of this section from within the dairy industry and elsewhere.

**(c) Application of section**

This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

(Pub. L. 104-127, title I, §150, Apr. 4, 1996, 110 Stat. 921.)

REFERENCES IN TEXT

The Export Trading Company Act of 1982, referred to in subsec. (a)(1), is title I of Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, as amended, which is classified generally to subchapter I (§4001 et seq.) of chapter 66 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 15 and Tables.

**§ 7259. Study and report regarding potential impact of Uruguay Round on prices, income, and government purchases**

**(a) Study**

The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

**(b) Report**

Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

**(c) Rule of construction**

Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

(Pub. L. 104-127, title I, §151, Apr. 4, 1996, 110 Stat. 922.)

## PART B—SUGAR

**§ 7271. Repealed. Pub. L. 107-171, title I, § 1310(a)(1), May 13, 2002, 116 Stat. 182**

Section, Pub. L. 104-127, title I, §155, Apr. 4, 1996, 110 Stat. 922, related to Secretary making nonrecourse loans available to producers of quota peanuts.

**§ 7272. Sugar program****(a) Sugarcane**

The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to—

- (1) 18.00 cents per pound for raw cane sugar for the 2008 crop year;
- (2) 18.25 cents per pound for raw cane sugar for the 2009 crop year;
- (3) 18.50 cents per pound for raw cane sugar for the 2010 crop year;
- (4) 18.75 cents per pound for raw cane sugar for the 2011 crop year; and
- (5) 18.75 cents per pound for raw cane sugar for the 2012 crop year.

**(b) Sugar beets**

The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to—

- (1) 22.9 cents per pound for refined beet sugar for the 2008 crop year; and
- (2) a rate that is equal to 128.5 percent of the loan rate per pound of raw cane sugar for the applicable crop year under subsection (a) for each of the 2009 through 2012 crop years.

**(c) Term of loans****(1) In general**

A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

- (A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or
- (B) the end of the fiscal year in which the loan is made.

**(2) Supplemental loans**

In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

- (A) be made at the loan rate in effect at the time the first loan was made; and
- (B) mature in 9 months less the quantity of time that the first loan was in effect.

**(d) Loan type; processor assurances****(1) Nonrecourse loans**

The Secretary shall carry out this section through the use of nonrecourse loans.

**(2) Processor assurances****(A) In general**

The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

**(B) Minimum payments****(i) In general**

Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

**(ii) Limitation**

In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

**(3) Administration**

The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

**(e) Loans for in-process sugar****(1) Definition of in-process sugars and syrups**

In this subsection, the term “in-process sugars and syrups” does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

**(2) Availability**

The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

**(3) Loan rate**

The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

**(4) Further processing on forfeiture****(A) In general**

As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

**(B) Transfer to corporation**

Once the in-process sugars and syrups are fully processed into raw cane sugar or re-

fined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

**(C) Payment to processor**

On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

(i) the difference between—

(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

(II) the loan rate the processor received under paragraph (3); by

(ii) the quantity of sugar transferred to the Secretary.

**(5) Loan conversion**

If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

**(6) Term of loan**

The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

**(f) Avoiding forfeitures; Corporation inventory disposition**

**(1) In general**

Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

**(2) Inventory disposition**

**(A) In general**

To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

**(B) Bioenergy feedstock**

If a reduction in the quantity of production accepted under subparagraph (A) involves sugar beets or sugarcane that has already been planted, the sugar beets or sugarcane so planted may not be used for any commercial purpose other than as a bioenergy feedstock.

**(C) Additional authority**

The authority provided under this paragraph is in addition to any authority of the

Commodity Credit Corporation under any other law.

**(g) Information reporting**

**(1) Duty of processors and refiners to report**

A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

**(2) Duty of producers to report**

**(A) Proportionate share States**

As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

**(B) Other States**

The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

**(3) Duty of importers to report**

**(A) In general**

Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

**(B) Tariff-rate quotas**

Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

**(4) Collection of information on Mexico**

**(A) Collection**

The Secretary shall collect—

(i) information on the production, consumption, stocks, and trade of sugar in Mexico, including United States exports of sugar to Mexico; and

(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

**(B) Publication**

The data collected under subparagraph (A) shall be published in each edition of the World Agricultural Supply and Demand Estimates.

**(5) Penalty**

Any person willfully failing or refusing to furnish the information required to be re-

ported by paragraph (1), (2), or (3), or furnishing willfully false information, shall be subject to a civil penalty of not more than \$10,000 for each such violation.

#### (6) Monthly reports

Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

#### (h) Substitution of refined sugar

For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

#### (i) Effective period

This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane. (Pub. L. 104-127, title I, §156, Apr. 4, 1996, 110 Stat. 931; Pub. L. 106-387, §1(a) [title VIII, §836], Oct. 28, 2000, 114 Stat. 1549, 1549A-62; Pub. L. 107-171, title I, §1401(a), May 13, 2002, 116 Stat. 183; Pub. L. 110-234, title I, §1401(a), May 22, 2008, 122 Stat. 977; Pub. L. 110-246, §4(a), title I, §1401(a), June 18, 2008, 122 Stat. 1664, 1705.)

#### REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (h), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Pub. L. 110-246, §1401(a), amended section generally, substituting provisions relating to loan program for the 2008 through 2012 crops of sugar beets and sugarcane, consisting of subsecs. (a) to (i), for provisions relating to loan program for the 1996 through 2007 crops of sugar beets and sugarcane, including provisions relating to loan rate adjustments, consisting of subsecs. (a) to (j).

2002—Pub. L. 107-171 reenacted section catchline and amended text generally, substituting substantially similar provisions in subsecs. (a), (b), (d), (e), and (h), and substituting in subsec. (c) provisions relating to loan rate adjustments for provisions relating to reduction in loan rates, in subsec. (f) provisions relating to loans for in-process sugar for provisions for marketing assessment, in subsec. (g) provisions relating to avoiding forfeitures and corporate inventory disposition for provisions relating to forfeiture penalty, in subsec. (i) provisions relating to substitution of refined sugar for provisions relating to crops, and adding subsec. (j).

2000—Subsec. (e)(1). Pub. L. 106-387, §1(a) [title VIII, §836(1)(B)], substituted “The” for “Subject to paragraph (2), the”.

Pub. L. 106-387, §1(a) [title VIII, §836(1)(A)], substituted “nonrecourse” for “recourse”.

Subsec. (e)(2), (3). Pub. L. 106-387, §1(a) [title VIII, §836(2)-(4)], redesignated par. (3) as (2), substituted

“The Secretary shall” for “If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall”, and struck out heading and text of former par. (2). Text read as follows: “During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### EFFECTIVE DATE OF ASSESSMENT TERMINATION

Pub. L. 107-171, title I, §1401(b), May 13, 2002, 116 Stat. 187, provided that: “Subsection (f) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)), as in effect immediately before the enactment of the Farm Security and Rural Investment Act of 2002 [Pub. L. 107-171], is deemed to have been repealed effective as of October 1, 2001.”

#### REGULATIONS

Pub. L. 106-387, §1(a) [title VIII, §840], Oct. 28, 2000, 114 Stat. 1549, 1549A-63, provided that: “As soon as practicable after the date of enactment of this Act [Oct. 28, 2000], the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement sections 804, 805, 806, 809, 810, 811, 812, 814, 815, 816, 836, 837, 838, 839, 841, 843, 844, and 845 of this title [amending this section and section 3720B of Title 31, Money and Finance, enacting provisions set out as notes under section 3720B of Title 31, and amending provisions set out as a note under section 1421 of this title]: *Provided*, That the issuance of the regulations shall be made without regard to: (1) the notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’): *Provided further*, That in carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.”

#### LOANS FOR 2007 CROP YEAR

Pub. L. 110-234, title I, §1401(b), May 22, 2008, 122 Stat. 981, and Pub. L. 110-246, §4(a), title I, §1401(b), June 18, 2008, 122 Stat. 1664, 1709, provided that: “The Secretary [of Agriculture] shall make loans for raw cane sugar and refined beet sugar available for the 2007 crop year on the terms and conditions provided in section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), as in effect on the day before the date of enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

#### SUBCHAPTER V—ADMINISTRATION

### § 7281. Administration

#### (a) Use of Commodity Credit Corporation

The Secretary shall carry out this chapter through the Commodity Credit Corporation.

**(b) Omitted****(c) Determinations by Secretary**

A determination made by the Secretary under this chapter shall be final and conclusive.

**(d) Regulations**

Not later than 90 days after April 4, 1996, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this chapter. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know<sup>1</sup> as the “Paperwork Reduction Act”).

(Pub. L. 104–127, title I, §161, Apr. 4, 1996, 110 Stat. 934.)

## REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

## CODIFICATION

Section is comprised of section 161 of Pub. L. 104–127. Subsec. (b) of section 161 of Pub. L. 104–127 amended sections 714b, 714i, and 714k of Title 15, Commerce and Trade.

**§ 7282. Adjustments of loans****(a) Adjustment authority**

The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

**(b) Manner of adjustment**

The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this chapter and title I of the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.].

**(c) Adjustment on county basis**

The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(Pub. L. 104–127, title I, §162, Apr. 4, 1996, 110 Stat. 935; Pub. L. 107–171, title I, §1606, May 13, 2002, 116 Stat. 218.)

## REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (b), see note set out under section 7201 of this title.

<sup>1</sup> So in original. Probably should be “known”.

The Farm Security and Rural Investment Act of 2002, referred to in subsec. (b), is Pub. L. 107–171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§7901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 7901 of this title and Tables.

## AMENDMENTS

2002—Subsec. (b). Pub. L. 107–171 substituted “this chapter and title I of the Farm Security and Rural Investment Act of 2002” for “this chapter”.

**§ 7283. Commodity Credit Corporation interest rate****(a) In general**

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

**(b) Sugar**

For purposes of this section, raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 7272 of this title shall not be considered an agricultural commodity.

(Pub. L. 104–127, title I, §163, Apr. 4, 1996, 110 Stat. 935; Pub. L. 107–171, title I, §1401(c), May 13, 2002, 116 Stat. 187.)

## AMENDMENTS

2002—Pub. L. 107–171 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**§ 7284. Personal liability of producers for deficiencies****(a) In general**

Except as provided in subsection (b) of this section, no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this chapter<sup>1</sup> title I of the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.], and title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] unless the loan was obtained through a fraudulent representation by the producer.

**(b) Limitations**

Subsection (a) of this section shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this chapter<sup>1</sup> title I of the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.], and title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.].

**(c) Acquisition of collateral**

In the case of a nonrecourse loan made under this chapter<sup>1</sup> title I of the Farm Security and

<sup>1</sup> So in original. Probably should be followed by a comma.

Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.], and title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.] or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

**(d) Sugarcane and sugar beets**

A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

(Pub. L. 104-127, title I, §164, Apr. 4, 1996, 110 Stat. 935; Pub. L. 107-171, title I, §1607, May 13, 2002, 116 Stat. 218; Pub. L. 110-234, title I, §1606, May 22, 2008, 122 Stat. 1017; Pub. L. 110-246, §4(a), title I, §1606, June 18, 2008, 122 Stat. 1664, 1746.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

The Farm Security and Rural Investment Act of 2002, referred to in subsecs. (a), (b)(3), and (c), is Pub. L. 107-171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§7901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 7901 of this title and Tables.

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (a), (b)(3), and (c), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (c), is act June 29, 1948, ch. 704, 62 Stat. 1070, which is classified generally to subchapter II (§714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of title 15 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsecs. (a), (b)(3), (c). Pub. L. 110-246, §1606, substituted “title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008” for “and title I of the Farm Security and Rural Investment Act of 2002”.

2002—Subsecs. (a), (b)(3), (c). Pub. L. 107-171 substituted “this chapter and title I of the Farm Security and Rural Investment Act of 2002” for “this chapter”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

**§ 7285. Commodity Credit Corporation sales price restrictions**

**(a) General sales authority**

The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

**(b) Nonapplication of sales price restrictions**

Subsection (a) of this section shall not apply to—

- (1) a sale for a new or byproduct use;
- (2) a sale of peanuts or oilseeds for the extraction of oil;
- (3) a sale for seed or feed if the sale will not substantially impair any loan program;
- (4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;
- (5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;
- (6) a sale for export, as determined by the Corporation; and
- (7) a sale for other than a primary use.

**(c) Presidential disaster areas**

**(1) In general**

Notwithstanding subsection (a) of this section, on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

**(2) Costs**

Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

- (A) the storage of the commodity; and
- (B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

**(d) Efficient operations**

Subsection (a) of this section shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

(Pub. L. 104-127, title I, §165, Apr. 4, 1996, 110 Stat. 936.)

#### REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(B), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

### § 7286. Commodity certificates

#### (a) In general

In making in-kind payments under subchapter III of this chapter, title I of the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.], and title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.], the Commodity Credit Corporation may—

- (1) acquire and use commodities that have been pledged to the Commodity Credit Corporation as collateral for loans made by the Corporation;
- (2) use other commodities owned by the Commodity Credit Corporation; and
- (3) redeem negotiable marketing certificates for cash under terms and conditions established by the Secretary.

#### (b) Methods of payment

The Commodity Credit Corporation may make in-kind payments—

- (1) by delivery of the commodity at a warehouse or other similar facility;
- (2) by the transfer of negotiable warehouse receipts;
- (3) by the issuance of negotiable certificates, which the Commodity Credit Corporation shall exchange for a commodity owned or controlled by the Corporation in accordance with regulations promulgated by the Corporation; or
- (4) by such other methods as the Commodity Credit Corporation determines appropriate to promote the efficient, equitable, and expeditious receipt of the in-kind payments so that a person receiving the payments receives the same total return as if the payments had been made in cash.

#### (c) Administration

##### (1) Form

At the option of a producer, the Commodity Credit Corporation shall make negotiable certificates authorized under subsection (b)(3) of this section available to the producer, in the form of program payments or by sale, in a manner that the Corporation determines will encourage the orderly marketing of commodities pledged as collateral for loans made to producers under subchapter III of this chapter, title I of the Farm Security and Rural Investment Act of 2002 [7 U.S.C. 7901 et seq.], and title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.].

##### (2) Transfer

A negotiable certificate issued in accordance with this subsection may be transferred to another person in accordance with regulations promulgated by the Secretary.

### (3) Termination of authority

The authority to carry out paragraph (1) terminates effective ending with the 2009 crop year.

(Pub. L. 104-127, title I, §166, as added Pub. L. 106-78, title VIII, §812, Oct. 22, 1999, 113 Stat. 1181; amended Pub. L. 107-171, title I, §1608, May 13, 2002, 116 Stat. 218; Pub. L. 110-234, title I, §1607, May 22, 2008, 122 Stat. 1018; Pub. L. 110-246, §4(a), title I, §1607, June 18, 2008, 122 Stat. 1664, 1746.)

#### REFERENCES IN TEXT

The Farm Security and Rural Investment Act of 2002, referred to in subsecs. (a) and (c)(1), is Pub. L. 107-171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§7901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (a) and (c)(1), is Pub. L. 110-246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Subsecs. (a), (c)(1). Pub. L. 110-246, §1607(1), substituted “, title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008” for “and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002”.

Subsec. (c)(3). Pub. L. 110-246, §1607(2), added par. (3).

2002—Subsecs. (a), (c)(1). Pub. L. 107-171 substituted “subchapter III of this chapter and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002” for “subchapter III of this chapter”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

### § 7287. Commodity Credit Corporation storage payments

#### (a) Initial crop years

Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in an amount that is not less than—

- (1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and
- (2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.

#### (b) Subsequent crop years

For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.

(Pub. L. 104-127, title I, §167, as added Pub. L. 110-234, title I, §1405, May 22, 2008, 122 Stat. 990,



and Pub. L. 110-246, §4(a), title I, §1405, June 18, 2008, 122 Stat. 1664, 1718.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section 1405 of Pub. L. 110-246, which directed that this section be added at the end of subtitle E of the Federal Agriculture Improvement and Reform Act of 1996, was executed by adding this section at the end of subtitle E of title I of that Act, to reflect the probable intent of Congress.

#### EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

### SUBCHAPTER VI—PERMANENT PRICE SUPPORT AUTHORITY

#### § 7301. Suspension and repeal of permanent price support authority

##### (a) Agricultural Adjustment Act of 1938

###### (1) Suspensions

The following provisions of the Agricultural Adjustment Act of 1938 [7 U.S.C. 1281 et seq.] shall not be applicable to the 1996 through 2001 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326-1351) [7 U.S.C. 1321 et seq., 1331 et seq., 1341 et seq., 1351].

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).<sup>1</sup>

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).<sup>1</sup>

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).<sup>1</sup>

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa-1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361-1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a-1379j).

(I) Title IV (7 U.S.C. 1401-1407).

###### (2) Omitted

##### (b) Agricultural Act of 1949

###### (1) Suspensions

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on April 4, 1996, and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447-1449).

(J) Title IV (7 U.S.C. 1421-1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461-1469).

(L) Title VI (7 U.S.C. 1471-1471j).

###### (2) Repeals

The following provisions of the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.] are repealed:

(A) Section 101B (7 U.S.C. 1441-2).

(B) Section 103B (7 U.S.C. 1444-2).

(C) Section 105B (7 U.S.C. 1444f).

(D) Section 107B [7 U.S.C. 1445b-3a].

(E) Section 108B (7 U.S.C. 1445c-3).

(F) Section 113 (7 U.S.C. 1445h).

(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).

(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).

(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

###### (3) Omitted

##### (c) Suspension of certain quota provisions

Section 1340 of this title shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(Pub. L. 104-127, title I, §171, Apr. 4, 1996, 110 Stat. 937; Pub. L. 107-171, title I, §1602(d), May 13, 2002, 116 Stat. 213.)

#### REFERENCES IN TEXT

The Agricultural Adjustment Act of 1938, referred to in subsec. (a)(1), is act Feb. 16, 1938, ch. 30, 52 Stat. 31, as amended, which is classified principally to chapter 35 (§1281 et seq.) of this title. Parts II through V and VII of subtitle B of title III of the Act are classified generally to subparts II (§1321 et seq.), III (§1331 et seq.), IV (§1341 et seq.), V (§1351, which was omitted from the Code), and VII (§1359aa et seq.), respectively, of part B of subchapter II of chapter 35 of this title. Part I of subtitle C of title III of the Act is classified generally to subpart I (§1361 et seq.) of part C of subchapter II of chapter 35 of this title. Subtitle D of title III of the Act is classified generally to part D (§1379a et seq.) of subchapter II of chapter 35 of this title. Title IV of the Act was classified generally to subchapter III (§1401 et seq.) of chapter 35 of this title, and was omitted from the Code. For complete classification of this Act to the Code, see section 1281 of this title and Tables.

Sections 1358, 1358a, and 1359 of this title, referred to in subsec. (a)(1)(B)-(D), were repealed by Pub. L. 107-171, title I, §1309(a)(1), May 13, 2002, 116 Stat. 179.

The Agricultural Act of 1949, referred to in subsec. (b)(1), (2), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§1421 et seq.) of this title. Title III of the Act is classified generally to sections 1447 to 1449 of this title. Title IV of the Act is classified principally to subchapter I (§1421 et seq.) of chapter 35A of this title. Title V of the Act, which was classified generally to subchapter IV (§1461 et seq.) of chapter 35A of this title, was omitted from the Code. Title VI of the Act is classified generally to subchapter V (§1471 et seq.) of chapter 35A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of this title and Tables.

<sup>1</sup> See References in Text note below.

## CODIFICATION

Section is comprised of section 171 of Pub. L. 104-127. Subsec. (a)(2) of section 171 of Pub. L. 104-127 amended section 1373 of this title and enacted provisions set out as a note under section 1373 of this title. Subsec. (b)(3) of section 171 of Pub. L. 104-127 amended section 1441 of this title.

## AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107-171 substituted “1996 through 2001” for “1996 through 2002”.

**§ 7302. Effect of chapter****(a) Effect on prior crops**

Except as otherwise specifically provided in this chapter and notwithstanding any other provision of law, this chapter and the amendments made by this chapter shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before April 4, 1996.

**(b) Liability**

A provision of this chapter or an amendment made by this chapter shall not affect the liability of any person under any provision of law as in effect before April 4, 1996.

(Pub. L. 104-127, title I, §172, Apr. 4, 1996, 110 Stat. 938.)

## REFERENCES IN TEXT

For definition of “this chapter”, referred to in text, see note set out under section 7201 of this title.

## SUBCHAPTER VII—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

**§ 7311. Establishment**

There is established a commission to be known as the “Commission on 21st Century Production Agriculture” (in this subchapter referred to as the “Commission”).

(Pub. L. 104-127, title I, §181, Apr. 4, 1996, 110 Stat. 938.)

**§ 7312. Composition****(a) Membership and appointment**

The Commission shall be composed of 11 members, appointed as follows:

(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

**(b) Qualifications**

At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) of this section shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be

appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

**(c) Term of members; vacancies**

A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

**(d) Time for appointment; first meeting**

The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subchapter 30 days after 6 members of the Commission have been appointed.

**(e) Chairperson**

The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

(Pub. L. 104-127, title I, §182, Apr. 4, 1996, 110 Stat. 938.)

**§ 7313. Comprehensive review of past and future of production agriculture****(a) Initial review**

The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since April 4, 1996, and the extent to which the changes are the result of this chapter and the amendments made by this chapter. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since April 4, 1996.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implemen-

tation and success of international trade agreements and United States export programs.

(8) An assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

**(b) Subsequent review**

The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a) of this section.

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

**(c) Recommendations**

In carrying out the subsequent review under subsection (b) of this section, the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2) of this section.

(Pub. L. 104-127, title I, §183, Apr. 4, 1996, 110 Stat. 939.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsec. (a), see note set out under section 7201 of this title.

**§ 7314. Reports**

**(a) Report on initial review**

Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 7313(a) of this title.

**(b) Report on subsequent review**

Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) of this section a report containing the results of the subsequent review conducted under section 7313(b) of this title.

(Pub. L. 104-127, title I, §184, Apr. 4, 1996, 110 Stat. 940.)

**§ 7315. Powers**

**(a) Hearings**

The Commission may, for the purpose of carrying out this subchapter, conduct such hear-

ings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

**(b) Assistance from other agencies**

The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subchapter. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

**(c) Mail**

The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

**(d) Assistance from Secretary**

The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

(Pub. L. 104-127, title I, §185, Apr. 4, 1996, 110 Stat. 940.)

**§ 7316. Commission procedures**

**(a) Meetings**

The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

**(b) Quorum**

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(Pub. L. 104-127, title I, §186, Apr. 4, 1996, 110 Stat. 941.)

**§ 7317. Personnel matters**

**(a) Compensation**

Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, when engaged in the performance of Commission duties.

**(b) Staff**

**(1) Appointment**

The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subchapter without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

**(2) Limitation on compensation**

No employee appointed under this subsection (other than the staff director) may be

compensated at a rate to exceed the maximum rate applicable to level GS-15 of the General Schedule.

**(c) Detailed personnel**

On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

(Pub. L. 104-127, title I, §187, Apr. 4, 1996, 110 Stat. 941.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5.

REFERENCES TO MAXIMUM RATE UNDER 5 U.S.C. 5376

For reference to maximum rate under section 5376 of Title 5, Government Organization and Employees, see section 2(d)(3) of Pub. L. 110-372, set out as an Effective Date of 2008 Amendment note under section 5376 of Title 5.

**§ 7318. Termination of Commission**

The Commission shall terminate on submission of the final report required by section 7314 of this title.

(Pub. L. 104-127, title I, §188, Apr. 4, 1996, 110 Stat. 941.)

SUBCHAPTER VIII—MISCELLANEOUS  
COMMODITY PROVISIONS

**§ 7331. Options pilot program**

**(a) Pilot programs authorized**

Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this chapter to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

**(b) Distribution of pilot program**

For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 300 counties, except that not more than 25 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

**(c) Eligible participants**

In operating the pilot program, the Secretary may enter into contract with a producer who—

- (1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this chapter;
- (2) volunteers to participate in the pilot program during any calendar year in which a

county in which the farm of the producer is located is included in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

**(d) Notice to producers**

The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop Insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

**(e) Contracts**

The Secretary shall set forth in each contract under the pilot program the terms and conditions for participation in the pilot program and the notice required by subsection (d) of this section.

**(f) Eligible markets**

Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

**(g) Recordkeeping**

A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

**(h) Use of Commodity Credit Corporation**

The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation, except that the amount of Commodity Credit Corporation funds used to carry out this section shall not exceed, to the maximum extent practicable, \$9,000,000 for fiscal year 2001, \$15,000,000 for fiscal year 2002, and \$2,000,000 for fiscal year 2003. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(Pub. L. 104-127, title I, §191, Apr. 4, 1996, 110 Stat. 941; Pub. L. 106-224, title I, §134, June 20, 2000, 114 Stat. 388.)

REFERENCES IN TEXT

For definition of “this chapter”, referred to in subsecs. (a) and (c)(1), see note set out under section 7201 of this title.

The Commodity Exchange Act, referred to in subsec. (f), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of this title. For complete classification of this Act to the Code, see section 1 of this title and Tables.

CODIFICATION

Section is comprised of section 191 of Pub. L. 104-127. Subsec. (i) of section 191 of Pub. L. 104-127 repealed provisions set out as a note under section 1421 of this title.

## AMENDMENTS

2000—Subsec. (b). Pub. L. 106-224, §134(1), substituted “300 counties, except that not more than 25” for “100 counties, except that not more than 6” in first sentence.

Subsec. (c)(2). Pub. L. 106-224, §134(2), inserted before semicolon at end “during any calendar year in which a county in which the farm of the producer is located is included in the pilot program”.

Subsec. (h). Pub. L. 106-224, §134(3), inserted before period at end of first sentence “, except that the amount of Commodity Credit Corporation funds used to carry out this section shall not exceed, to the maximum extent practicable, \$9,000,000 for fiscal year 2001, \$15,000,000 for fiscal year 2002, and \$2,000,000 for fiscal year 2003”.

## EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-224 effective Oct. 1, 2000, see section 171(b)(1)(A) of Pub. L. 106-224, set out as a note under section 1501 of this title.

**§ 7332. Risk management education**

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

(Pub. L. 104-127, title I, §192, Apr. 4, 1996, 110 Stat. 942.)

**§ 7333. Administration and operation of noninsured crop assistance program****(a) Operation and administration of program****(1) In general**

In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 1508(b) of this title. The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the “Agency”).

**(2) Eligible crops****(A) In general**

In this section, the term “eligible crop” means each commercial crop or other agricultural commodity (except livestock)—

- (i) for which catastrophic risk protection under section 1508(b) of this title is not available; and
- (ii) that is produced for food or fiber.

**(B) Crops specifically included**

The term “eligible crop” shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed

crops, aquaculture (including ornamental fish), sea grass and sea oats, camelina, and industrial crops.

**(C) Combination of similar types or varieties**

At the option of the Secretary, all types or varieties of a crop or commodity, described in subparagraphs (A) and (B), may be considered to be a single eligible crop under this section.

**(3) Cause of loss**

To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

**(4) Program ineligibility relating to crop production on native sod****(A) Definition of native sod**

In this paragraph, the term “native sod” means land—

- (i) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and
- (ii) that has never been tilled for the production of an annual crop as of the date of enactment of this paragraph.

**(B) Ineligibility for benefits****(i) In general**

Subject to clause (ii) and subparagraph (C), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this paragraph shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

- (I) this section; and
- (II) the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

**(ii) De minimis acreage exemption**

The Secretary shall exempt areas of 5 acres or less from clause (i).

**(C) Application**

Subparagraph (B) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.

**(b) Application for noninsured crop disaster assistance****(1) Timely application**

To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted not later than 30 days before the beginning of the coverage period, as determined by the Secretary.

**(2) Records**

To be eligible for assistance under this section, a producer shall provide annually to the Secretary records of crop acreage, acreage yields, and production for each crop, as required by the Secretary.

**(3) Acreage reports**

A producer shall provide annual reports on acreage planted or prevented from being plant-

ed, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

**(c) Loss requirements**

**(1) Cause**

To be eligible for assistance under this section, a producer of an eligible crop shall have suffered a loss of a noninsured commodity as the result of a cause described in subsection (a)(3) of this section.

**(2) Assistance**

**(A) In general**

On making a determination described in subsection (a)(3) of this section, the Secretary shall provide assistance under this section to producers of an eligible crop that have suffered a loss as a result of the cause described in subsection (a)(3) of this section.

**(B) Aquaculture producers**

On making a determination described in subsection (a)(3) for aquaculture producers, the Secretary shall provide assistance under this section to aquaculture producers from all losses related to drought.

**(3) Prevented planting**

Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

**(4) Area trigger**

The Secretary shall provide assistance to individual producers without any requirement of an area loss.

**(d) Payment**

The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

- (i) harvested;
- (ii) planted but not harvested; and
- (iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable har-

vesting expense, as determined by the Secretary.

**(e) Yield determinations**

**(1) Establishment**

The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

**(2) Actual production history**

The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

**(3) Assignment of yield**

If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

**(4) Prohibition on assigned yields in certain counties**

**(A) In general**

**(i) Documentation**

If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

**(ii) Prohibition**

Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

**(B) Exception**

A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

**(5) Limitation on receipt of subsequent assigned yield**

A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

**(6) Yield variations due to different farming practices**

The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

**(f) Contract payments**

A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

**(g) Use of Commodity Credit Corporation**

The Secretary may use the funds of the Commodity Credit Corporation to carry out this section.

**(h) Exclusions**

Noninsured crop disaster assistance under this section shall not cover losses due to—

- (1) the neglect or malfeasance of the producer;
- (2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or
- (3) the failure of the producer to follow good farming practices, as determined by the Secretary.

**(i) Payment and income limitations**

**(1) Definitions**

In this subsection, the terms “legal entity” and “person” have the meanings given those terms in section 1308(a) of this title.

**(2) Payment limitation**

The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) for any crop year may not exceed \$100,000.

**(3) Limitation on multiple benefits for same loss**

**(A) In general**

Except as provided in subparagraph (B), if a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

**(B) Exception**

Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

**(4) Adjusted gross income limitation**

A person or legal entity that has an average adjusted gross income in excess of the average adjusted gross income limitation applicable under section 1308–3a(b)(1)(A) of this title, or a successor provision, shall not be eligible to receive noninsured crop disaster assistance under this section.

**(5) Regulations**

The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary—

(A) to ensure a fair and equitable application of section 1308 of this title, the general payment limitation regulations of the Secretary, and the limitations established under this subsection; and

(B) to ensure that payments under this section are attributed to a person or legal entity (excluding a joint venture or general partnership) in accordance with the terms and conditions of sections 1308 through 1308–3a of this title, as determined by the Secretary.

**(j) Omitted**

**(k) Service fee**

**(1) In general**

To be eligible to receive assistance for an eligible crop for a crop year under this section, a producer shall pay to the Secretary (at the time at which the producer submits the application under subsection (b)(1) of this section) a service fee for the eligible crop in an amount that is equal to the lesser of—

(A) \$250 per crop per county; or

(B) \$750 per producer per county, but not to exceed a total of \$1,875 per producer.

**(2) Waiver**

The Secretary shall waive the service fee required under paragraph (1) in the case of a limited resource farmer, as defined by the Secretary.

**(3) Use**

The Secretary shall deposit service fees collected under this subsection in the Commodity Credit Corporation Fund.

(Pub. L. 104–127, title I, §196, Apr. 4, 1996, 110 Stat. 947; Pub. L. 105–277, div. A, §101(a) [title VIII, §803(b)], Oct. 21, 1998, 112 Stat. 2681, 2681–38; Pub. L. 106–224, title I, §109, June 20, 2000, 114 Stat. 371; Pub. L. 107–171, title X, §10101, May 13, 2002, 116 Stat. 488; Pub. L. 110–234, title I, §1603(f)(1), title XII, §§12020(b), 12025(b), 12027, 12028, May 22, 2008, 122 Stat. 1010, 1381, 1390; Pub. L. 110–246, §4(a), title I, §1603(f)(1), title XII, §§12020(b), 12025(b), 12027, 12028, June 18, 2008, 122 Stat. 1664, 1739, 2143, 2152.)

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (a)(4)(A)(ii), (B)(i), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

The Federal Crop Insurance Act, referred to in subsec. (a)(4)(B)(i)(II), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (i)(3)(B), is title III of Pub. L. 87-128, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle C of the Act is classified generally to subchapter III (§1961 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section is comprised of section 196 of Pub. L. 104-127. Subsec. (j) of section 196 of Pub. L. 104-127 repealed section 1519 of this title.

#### AMENDMENTS

2008—Subsec. (a)(2)(B). Pub. L. 110-246, §12025(b), inserted “camelina,” after “sea oats.”

Subsec. (a)(4). Pub. L. 110-246, §12020(b), added par. (4).

Subsec. (c)(2). Pub. L. 110-246, §12027, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (i)(1), (2). Pub. L. 110-246, §1603(f)(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which defined “person” and “qualifying gross revenues” and provided that the total amount of payments that a person would be entitled to receive annually could not exceed \$100,000.

Subsec. (i)(4). Pub. L. 110-246, §1603(f)(1)(B), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.”

Subsec. (i)(5). Pub. L. 110-246, §1603(f)(1)(C), designated part of existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k)(1). Pub. L. 110-246, §12028, in subpar. (A) substituted “\$250” for “\$100” and in subpar. (B) substituted “\$750” for “\$300” and “\$1,875” for “\$900”.

2002—Subsec. (a)(2)(B). Pub. L. 107-171 inserted “sea grass and sea oats,” after “fish.”

2000—Subsec. (a)(2)(C). Pub. L. 106-224, §109(a), added subpar. (C).

Subsec. (b)(1). Pub. L. 106-224, §109(b), substituted “not later than 30 days before the beginning of the coverage period, as determined by the Secretary” for “at such time as the Secretary may require” in second sentence.

Subsec. (b)(2). Pub. L. 106-224, §109(c)(1), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.”

Subsec. (b)(3). Pub. L. 106-224, §109(c)(2), inserted “annual” after “shall provide”.

Subsec. (c). Pub. L. 106-224, §109(d), added subsec. (c) and struck out heading and text of former subsec. (c), which authorized noninsured crop disaster assistance if average yield fell below 65 percent of expected yield, if producer was prevented from planting more than 35 percent of intended acreage, or if total quantity of harvest was less than 50 percent of expected yield.

Subsec. (k). Pub. L. 106-224, §109(e), added subsec. (k).

1998—Subsec. (i)(3). Pub. L. 105-277 designated existing provisions as subpar. (A), inserted heading, substituted “Except as provided in subparagraph (B), if a producer” for “If a producer”, and added subpar. (B).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-224 applicable beginning with the 2001 crop of an agricultural commodity, see section 171(b)(2)(G) of Pub. L. 106-224, set out as a note under section 1501 of this title.

#### TRANSITION PROVISIONS

Pub. L. 110-234, title I, §1603(f)(2), May 22, 2008, 122 Stat. 1011, and Pub. L. 110-246, §4(a), title I, §1603(f)(2), June 18, 2008, 122 Stat. 1664, 1739, provided that: “Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crops of any eligible crop.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

Section as in effect on day before June 20, 2000, to continue to apply with respect to 1999 crop year, and to apply with respect to 2000 crop year, to extent application of an amendment by Pub. L. 106-224 is delayed under section 171(b) or by terms of the amendment, see section 173 of Pub. L. 106-224, set out as a note under section 1501 of this title.

### § 7334. Flood risk reduction

#### (a) In general

During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the “Secretary”) may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that is frequently flooded.

#### (b) Duties of producers

Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.];

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or re-insured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

#### (c) Duties of Secretary

In return for a contract entered into by a producer under this section, the Secretary shall pay



the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act [7 U.S.C. 7201 et seq.] that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

**(d) Commodity Credit Corporation**

The Secretary shall carry out the program authorized by this section (other than subsection (e) of this section) through the Commodity Credit Corporation.

**(e) Additional payments**

**(1) In general**

Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a) of this section, in addition to the payments provided under subsection (c) of this section, to offset other estimated Federal Government outlays on frequently flooded land.

**(2) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

**(f) Limitation on payments**

Amounts made available for production flexibility contracts under section 7213 of this title shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

(Pub. L. 104-127, title III, §385, Apr. 4, 1996, 110 Stat. 1016.)

REFERENCES IN TEXT

The Agricultural Market Transition Act, referred to in subsecs. (a), (b)(1), and (c), is title I of Pub. L. 104-127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to this chapter. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Food Security Act of 1985, referred to in subsec. (b)(4), is Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the “Sodbuster Law”, is classified principally to chapter 58 (§3801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

CODIFICATION

Section was enacted as part of title III of the Federal Agriculture Improvement and Reform Act of 1996, and not as part of title I of the Act, known as the Agricultural Market Transition Act, which comprises this chapter.

**CHAPTER 101—AGRICULTURAL PROMOTION**

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**SUBCHAPTER I—COMMODITY PROMOTION AND EVALUATION**

**§ 7401. Commodity promotion and evaluation**

**(a) “Commodity promotion law” defined**

In this section, the term “commodity promotion law” means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 608c(6)(I) of this title;